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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,538	02/09/2001	Quinn H. Lipin		5759

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Quinn Lipin
Net-U-Net, L.L.C.
16B Upham Street
Newton, MA 02494

EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/779,538

Applicant(s)

LIPIN, QUINN H.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 1 is objected to because it is not written as a single sentence as required under current Office practice. The dangling wherein modifier after the claim ending sentence period is considered grammatically improper and appropriate correction is required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Merriman et al. (US 5,948,061). Merriman is considered to disclose a computer network comprising:

Customers interconnected to said network (column 3 lines 5-9);

Affiliate sites **12** interconnected to said network and programmed to display to a Customer visiting the Affiliate site information and linking instructions about one or more products or services available for commercial transactions with a Merchant or Merchants;

Clearinghouse site interconnected to said network and programmed to receive information regarding display of or selection of said display information on the Affiliate site, and the ability to read the Customer's unique identification code, and store said code in memory, and further to provide connection of said Customer to an identified Merchant site (column 4 lines 44-55 wherein the disclosed database structure is

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considered patentably equivalent to the claimed clearinghouse site because both provide the same function, in the same manner with the same result for storing unique customer identification codes for merchant affiliate identification);

Clearinghouse site also sends information and programming to the Customer site so that superimposed upon part of the Merchant's site the Customer sees other information within a Frame as chosen by the Clearinghouse (column 1 lines 29-44 and column 2 lines 1-3);

Customer may by choosing an information display on the Frame be transported to another Merchant site, another non-Merchant site, a Clearinghouse maintained search engine or listing of other sites that may be of interest to the Customer (column 2 line 65 through column e line 4)

wherein the Clearinghouse stores and maintains the Customer's identification code, tracks transactions the Customer makes with any Merchant that is a member of the network (column 3 line 64 through column 4 line 11).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merriman in view of Archibald et al. (US 5,825,883). Merriman is considered to disclose the claimed invention as discussed above in the anticipatory rejection except for the claimed credit receipt. Archibald is considered to disclose the claimed credit receipt at column 4 lines 1-65. In that column, it is considered that the claimed affiliate is functionally equivalent to the disclosed monitor or authority, the claimed merchants are patentably equivalent to the disclosed video publisher, the claimed customer is anticipated by the disclosed consumer, and the claimed clearinghouse is patentably equivalent to the disclosed providers. It would have been obvious to one skilled in the art to combine the teachings of Merriman with the credit receipt found in Archibald for the purpose of providing an accounting of transactions conducted over a merchant affiliate provider network by use of a clearinghouse-type provider.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merriman in view of Safadi (WO 00/39506). Merriman is considered to disclose the claimed invention as discussed above in the anticipatory rejection except for the claimed customer interest additional information display. Safadi is considered to disclose the claimed customer interest additional information display on page 23 lines 14-31 and on page 25 lines 4-19. On those pages, it is considered that the claimed affiliate site is

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functionally equivalent to the disclosed local advertisement server, the claimed dual transport are patentably equivalent to the disclosed trigger, the claimed merchant site is anticipated by the disclosed head end network, and the claimed additional information is patentably equivalent to the disclosed complementary data. It would have been obvious to one skilled in the art to combine the teachings of Merriman with the customer interest additional information display found in Safadi for the purpose of providing an embedded frame display for further information provided over a merchant affiliate provider network by use of a composite display.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mankovitz (US 5,703,795) and Ross, Jr. et al. (US 6,629,135) are considered to teach a network for establishing, managing, and tracking commercial transactions. Reference U cited in this action, is considered to be the most relevant non-patent literature reference with respect to the claimed invention. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

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Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached during normal business hours eastern standard daylight savings time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W Stamber can be reached on 703 305 8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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